

**Proposed Amendments to Chapter 215 of the Town of Stony Point Code
Implementing 2012 Master Plan Update
September 12, 2013**

Turner Miller Group

The following changes are proposed to the Code of the Town of Stony Point. Underlined text is proposed to be added. Struck through text is proposed for deletion.

Chapter 98. EXCAVATIONS

Section 98-1. Intent and purpose.

The Town Board of the Town of Stony Point has taken cognizance of the concern of residents of the community for control of unbridled rock processing in residential subdivisions and other activities engaged in by the owners of residential property not otherwise zoned for quarrying purposes. The Town Board, in response to such concern, hereby enacts this particular article for the purpose of regulating and controlling rock processing within the Town of Stony Point so as to permit reasonable activity by developers and so as to protect the rights of the residents who may be inconvenienced unnecessarily by improper processing of rock within the jurisdiction of the Town of Stony Point.

Section 98-5. On-site processing.

No rock or other material shall be crushed or processed on any site in a residential zone unless such rock or material was excavated from the same site. In other words, no material shall be transported from other locations to a residentially zoned site under development for the purpose of being processed. No processed rock or material shall be removed or transported from the development site.

Article I. Title and Purpose - [NO CHANGE]

Article II. Word Usage; Definitions

§ 215-4. Word usage.

[NO CHANGE]

§ 215-5. Definitions.

Add definitions to §215-5 (definitions) as follows:

NOISE LEVEL, DAY NIGHT - The average noise level over a 24 hour period, except that a 10 dBA reduction in the noise level shall be made from the hours of 10 PM to 7 AM as promulgated by the United States Environmental Protection Agency.

RESIDENCE, MULTIFAMILY - A building which is designed, used or occupied for residential purposes for more than two dwelling units.

TECHNICAL ADVISORY COMMITTEE (TAC) - The Town's Technical Advisory Committee shall consist of the Town Planner, Town Engineer, Planning and/ or Zoning Board attorney, and Town Building Inspector. This Committee shall meet prior to and outside of the regular Planning and Zoning Board meeting schedule to evaluate the technical adequacy of all applications to the Town's Land Use Boards and make recommendations for revisions of such applications to the applicant and final recommendations to the appropriate Board. Members of the Planning Board and Zoning Board may attend and participate at TAC meetings so long as they do not constitute a quorum of their respective Boards.

VARIANCE, AREA OR BULK - the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this Chapter;

VARIANCE, USE - the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Chapter;

Article III. Districts; Map

§ 215-6. Establishment of districts.

The zoning districts listed below are hereby established, and the Town of Stony Point is divided into the classes of districts listed:

| Symbol | Title |
|---------------|--|
| APRP | Ambrey Pond Reservoir Protection District |
| SR-R | Special Recreation-Residential District |
| RR | Rural-Density Residential District |
| R-1 | Low-Density Residential District |
| SRC | Senior Citizen Housing District |
| MHC | Manufactured Housing Community District |
| R-W | Waterfront Residential District |
| BU | Business District |
| O | Office District |
| LI-1 | Light Industrial District |
| <u>LI-2</u> | <u>Holt Drive Light Industrial/Commercial District</u> |
| SR | Special Recreation District |
| PW | Planned Waterfront District |

§ 215-7. Zoning Map.

The boundaries of said districts are hereby established as shown on the Zoning Map, which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date in the offices of the Town Clerk for the use and benefit of the public.

§ 215-8. Interpretation of boundaries.

[NO CHANGE]

§ 215-9. Compliance required.

[NO CHANGE]

Article IV. Use Requirements

§ 215-10. Establishment.

[NO CHANGE]

§ 215-11. Use Table.

[NO CHANGE]

§ 215-12. Utilization of Use Table.

[NO CHANGE]

§ 215-13. Prohibited uses.

[NO CHANGE]

Article V. Bulk Requirements

§ 215-14. Establishment.

[NO CHANGE]

§ 215-15. Bulk Table.

[NO CHANGE]

§ 215-16. Special requirements.

A. As part of any minimum lot area requirement of this chapter for residential purposes, not more than 50% of any land under water or within a stream, defined as that area located between the top of its streambanks or where no streambank exists, the area which conveys water under normal conditions, within easements or rights-of-way for overhead utilities, with slopes ~~(unexcavated)~~ of over 25%, within a designated street line or within any freshwater wetland shall be counted. The application of this section to any particular lot shall be the responsibility of the Town Planning Board at the time of subdivision or site development plan approval.

[Amended 3-9-1993 by L.L. No. 3-1993; 5-9-2000 by L.L. No. 2-2000; 7-11-2000 by L.L. No. 3-2000; 11-14-2000 by L.L. No. 6-2000]

B. Required street frontage and lot width for lots fronting on culs-de-sac or on streets with a radius of curvature at the center line of 100 feet or less or in other appropriate circumstances may be reduced by the Planning Board at the time of subdivision plat approval to 1/2 of the required dimensions but in no case less than 50 feet. No portion of the lot along the access route from its frontage into the lot shall be narrower than the approved frontage.

[Amended 5-8-1990]

C. In O and LI Districts, no side setback, no side yard, no rear setback or no rear yard shall be required where such setback abuts an overhead utility transmission line right-of-way, railroad or a limited-access highway. In such cases, the total width of both side setbacks shall be 75 feet in an O and LI District.

§ 215-17. Average density.

A. The Town Board ~~may hereby~~ authorizes the Planning Board, simultaneously with the approval of a subdivision plat in accordance with § 278 of the Town Law and the provisions of the average density zoning resolution heretofore and hereafter adopted by the Town Board, to modify the applicable bulk and area provisions of this chapter. ~~For properties where more than 25% of the land is characterized by either steep slopes which exceed 25%, freshwater wetlands or the one hundred-year floodplain, or where the property includes a stream with a New York State Department of Environmental Conservation water quality classification of A, B, C, (T) or (TS),~~ The Planning Board may require the submission of an application for cluster development and approve cluster development without further authorization of the Town Board. This procedure may be followed by the Planning Board upon written application by the owner or subdivider or at the initiation of the Planning Board. The procedure may be used to modify the minimum lot area requirements; lot width; front, side and rear yards and setbacks; and street frontage. This procedure may not be used to modify the requirements for building height. ~~The minimum lot area sizes may be reduced to no less than 25,000 square feet acre for the RR District and for single family residential uses permitted by right in the SR-R District, and the yard and setback requirements shall not be reduced below the requirements of Use Group d.4. However,~~ The lot size may not be reduced below the area required for adequate septic sewage disposal where such systems are to be provided.

B. In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space or other municipal purposes, then the Planning Board, as condition of final plat approval, may establish such conditions as to the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. All conditions shall be approved by the Town Board prior to final plat approval by the Planning Board.

C. Open space land created as part of the application of average density to a subdivision plat and which is not required or permitted to be accepted for dedication to the Town of Stony Point shall be in a form of common ownership, which form and content shall be subject to the approval of the Town Board and which shall meet at least one of the following conditions:

- (1) That each owner or owners of every subdivision lot shall be an owner in common with the other owners of the subdivision of the land intended to be held as open space.
- (2) That each subdivided lot shall carry with it a covenant underwriting the payment of taxes on the open space land, which covenant shall bind the owner thereof and every successive owner thereof.
- (3) A homeowners' or cooperative association or corporation may be formed to hold ownership of the open space, provided that each and every subdivided lot owner shall remain liable for the taxes, operation and maintenance of the open space land.
- (4) That such other mechanism or form, as shall be approved by the Town Board, shall be established which shall satisfy the requirements of the payment of taxes and the operation and maintenance of the property so created.

§ 215-18. Restrictions on lot development in SR-R and RR Districts.

A. For any lot or any portion of a lot, those areas characterized by slopes in excess of 25% shall not be developed, regraded or stripped of vegetation, except that up to 2,500 square feet of slopes greater than 25% may be disturbed except for construction of a principal structure on any lot created before April 9, 1996. For any lot or portion of a lot, those areas located 50 feet in elevation below the ridge of a mountain shall not be developed, regraded or stripped of vegetation. (See Sketch D.) The Planning Board may, in its discretion, permit the development of roads through areas where the slope exceeds 25% in order to provide access to areas of a site which would otherwise be inaccessible. Retaining walls shall not be more than five feet in height. Where necessary, additional five-foot sections may be provided, separated by terraces of at least six feet. The Planning Board may modify this requirement where, in its judgment, an alternative is preferable.

B. Where the construction of a principal structure or an addition to a principal structure in excess of 500 square feet is proposed on a lot located in the SR-R or RR zoning districts and located within the viewshed protection overlay district the following design standards and restrictions shall apply in order to preserve environmentally sensitive ridgelines and hilltops and reduce overall visual impacts of a project.

(1) To the greatest extent practicable every attempt should be made to limit the amount of cutting and removal of trees so as to maintain natural site vegetation. The Planning Board may require supplementary plantings where, in the Board's opinion, the proposed structure may have a negative visual impact on surrounding properties or the protected viewsheds.

(2) In order to blend the structure into the natural environment and mitigate visual impacts, a structure should be located within an area of lower relative topography on the site within the permitted building envelope and shall be a natural color.

(3) Where practicable, roofs should stay at or below the natural tree line on the property and roofs shall also be of natural color.

(4) For any proposed structure, excluding those which propose to be less than 26 feet in height, the Planning Board may require a visual impact assessment to be completed by the applicant which may include sketches or other post-construction images of the site.

(5) Retaining walls shall not be more than five feet in height. Where necessary, additional five-foot sections may be provided, separated by terraces of at least six feet. The Planning Board may modify this requirement where, in its judgment, an alternative is preferable.

§ 215-19. (Reserved)

§ 215-20. Effect of amendments to bulk requirements in certain districts.

[NO CHANGE]

§ 215-21. Special requirements for manufactured housing communities.

[NO CHANGE]

Article VI. Supplementary Yard and Setback Requirements

§ 215-22. General requirements.

[NO CHANGE]

§ 215-23. Front yard exceptions.

[NO CHANGE]

§ 215-24. Side and rear yard and setback exceptions.

[NO CHANGE]

§ 215-25. Measurement of front yards and setbacks.

[NO CHANGE]

§ 215-26. Corner lots.

[NO CHANGE]

§ 215-27. Riverfront setback.

[NO CHANGE]

Article VII. Supplementary Building Requirements

§ 215-28. Height exceptions.

[NO CHANGE]

§ 215-29. Courts.

[NO CHANGE]

§ 215-30. Spacing.

[NO CHANGE]

§ 215-31. Waiver of yards.

[NO CHANGE]

§ 215-32. Building width at Hudson Riverfront.

[NO CHANGE]

§ 215-33. Development coverage for Hudson River parcels.

[NO CHANGE]

Article VIII. Accessory Parking and Loading Requirements

§ 215-34. General requirements.

The minimum number of accessory off-street parking spaces shall conform to the requirements of Use Table, Column F, except that:

A. The Planning Board, in conjunction with site development plan approval, may permit a reduction in the number of developed parking spaces where adequate accessible reserve areas are available and designated on the plan as areas for overflow parking.

B. The Planning Board may reduce the required number of parking spaces upon demonstration by the applicant that the number exceeds the design-hour requirement and upon a demonstration that such reduction would not induce parking on public ways or result in hazardous conditions for vehicles and pedestrians within or proximate to the site. This reduction by the Planning Board may not exceed 25% of the normally required amount.

C. Where an existing structure exists in the BU, LI, LI-2 or O Zoning Districts and where such structure is proposed for occupancy by a use permitted by right in the relevant Table of General Use Requirements and where no exterior site changes are proposed, the Building Inspector is authorized to waive parking as follows:

(1) 20% of parking requirement where the parking requirement for all uses on the parcel is less than 10 parking spaces;

(2) 25% of parking requirement where the parking requirement for all uses on the parcel is less than 20 parking spaces;

(3) 35% of parking requirement where the parking requirement for all uses on the parcel is less than 30 parking spaces;

(4) The Building Inspector may not waive any required parking where a residential unit is proposed or exists or where the parking requirement is for 30 spaces or more.

(5) In providing this relief, no existing parking space shall be eliminated.

§ 215-35. Areas computed as parking spaces.

[No Change]

§ 215-36. Specific requirements.

[No Change]

§ 215-37. Parking adjacent to residence district.

[No Change]

§ 215-38. Driveway access.

[No Change]

§ 215-39. Commercial vehicles.

A. Not more than one commercial vehicle, of 25 feet or less in length, may be parked on a developed lot in any residence district but not within the required yards of such lot and in no case between the street line and the principal building.

B. Not more than one commercial vehicle of 25 feet or less in length may be parked within a private garage in any residence district.

C. Commercial vehicles are permitted as accessory to a commercial farm use in any residence district but shall not be stored or parked within any required yard.

D. No commercial vehicle or otherwise shall be parked or stored on any unimproved lot.

E. Within the BU, LI or LI-2 Zoning District, as an accessory to a conforming use, the Planning Board may approve the storage of up to ten commercial trucks or vans up to 30 feet in length, where such vehicles are offered for rent or lease by the property owner, but such vehicles shall not be stored within any required front or side yard or any required rear yard abutting to a residential zoning district and any parking space or area used for storage of such vehicles shall not be considered toward meeting the parking requirement. The approval shall not require the submission of a site plan, except if determined to be necessary by the Planning Board following a site visit by reason of requiring mitigating controls, such as additional paving, screening, drainage, pavement striping, lighting or other necessary site features. In such a case, the Planning Board may require that a full site plan be submitted or may waive site plan requirements it deems unnecessary. Where a site plan is required, the Planning Board shall follow the procedures for approval of site plans including the advertising and conduct of a public hearing.

§ 215-40. Recreational vehicles, boats and boat trailers.

[No Change]

§ 215-41. Off-street loading berths.

[No Change]

§ 215-42. Additional requirements.

[No Change]

Article IX. Signs

[No Change]

Article X. Site Development Plan Review

§ 215-59. General requirements.

No site development plan approval shall be required for single-family detached residential uses or for additions, alterations or structures accessory thereto. However, single-family detached residential uses may be subject to the requirements of the Town of Stony Point Stormwater Management and Erosion Control Law and said law shall be reviewed to determine its applicability to said uses. ~~All other principal uses and all conditional accessory uses shall require a s~~ For uses other than single-family detached residences, site development plan approval shall be required prior to the issuance of a building permit, certificate of occupancy or certificate of use for the construction of a new principal structure, or external alteration or addition thereto or for the construction of any accessory structure used for a use permitted by conditional use or special permit use or external alteration or addition thereto. Modification of parking layouts, lighting, required landscaping or other site elements shall be deemed an external alteration. No lot or parcel of land shall be used except in conformity with an approved site development plan, when required. Any use permitted by right in the Waterfront Residential District shall not require site development plan approval from the Planning Board, provided that the Building Inspector verifies that the project meets bulk requirements. Any

project in the R-W District which does meet the bulk requirements will require Planning Board approval and Zoning Board approval. Minor repairs and/or minor additions shall be made without Planning Board approval if they meet all zoning requirements.

§ 215-60. Objectives.

[No Change]

§ 215-61. Procedure.

A. Prior to application for a building permit, certificate of occupancy or certificate of use, where required, site development plan approval shall be secured from the Planning Board. The applicant has the option ~~of choosing between to submit~~ a formal application directly to the Planning Board or to submit an informal plan for discussion to the Technical Advisory Committee (TAC). ~~for approval and an informal submission for review.~~ For purposes of an informal submission, the applicant should provide as much information as possible, keeping in mind the specific requirements of Chapter A220 of the Town Code.~~he can.~~ The ~~informal review preapplication review~~ by the ~~Planning Board TAC~~ shall not constitute a formal application, and no approval can be granted based on it. The TAC will recommend to the applicant any additional technical information required based on the requirements of the Town Code and shall advise the applicant on the Town's site development plan review process, State Law requirements and other required reviews and approvals.

~~At this time, the applicant should outline any modifications he is requesting from the requirements specified herein.~~

B. Submissions.

[No Change]

§ 215-62. Preliminary review and approval.

[No Change]

§ 215-63. Final review and approval.

[No Change]

§ 215-64. Signing and referral of plan.

[No Change]

§ 215-65. Amendment of plan.

[No Change]

§ 215-66. Wireless telecommunications facilities.

[No Change]

Article XI. Landscaping; Environmental Control; Swimming Pools; Floodplains

§ 215-67. General landscaping and environmental control requirements.

A. General Requirements. Pursuant to the provisions of § 274-a of the Town Law and § 215-140 of this chapter, the Planning Board is authorized to adopt rules and regulations pertaining to the incorporation of landscape materials in any project requiring site development plan approval and for the environmental control of such projects.

B. Tree Preservation. See Chapter 198 of the Code of the Town of Stony Point.

§ 215-68. Landscaping and erosion and sedimentation control.

[No Change]

§ 215-69. State environmental quality review.

[No Change]

§ 215-70. Swimming pools.

[No Change]

§ 215-71. Floodplains.

[No Change]

§ 215-72. Freshwater wetlands protection and buffer requirements.

A. Any lot or site containing freshwater wetlands shall comply with the requirements of Chapter 116, Freshwater Wetlands. Any wetland located within the Town of Stony Point is deemed a freshwater wetland and shall be subject to the requirements contained in Chapter 116 and the regulations contained herein.

B. The following additional standards shall apply to freshwater wetlands located in the Town of Stony Point. These regulations are in addition to any requirements that may be imposed by the New York State Department of Environmental Conservation or the United States Army Corps of Engineers (ACOE) for activities effecting freshwater wetlands regulated by said agencies. Where a conflict exists, the regulations that are most protective of freshwater wetlands shall apply.

(1) It shall be a matter of Town policy to limit disturbance in close proximity to any freshwater wetland in the Town. No building, structure or impervious surfaces shall be situated, nor shall grading of land or clearcutting of vegetation be permitted within the required wetland conservation buffer areas established herein. For any freshwater wetland regulated by the New York State Department of Environmental Conservation or equal to or greater than 12.4 acres in size, the minimum freshwater wetland conservation buffer shall be 100 feet. For any freshwater wetland regulated by the United States Army Corps of Engineers, the freshwater wetland conservation buffer shall be in accordance with any conditions established by said agency as part of its permitting process.

(2) Regulated activities. No building permit shall be issued, nor shall any site plan or subdivision plan be approved except in conformity with these regulations. The following activities shall not be permitted within a wetland conservation buffer without first obtaining Planning Board approval:

~~(a) The construction of a building, structure or impervious surface or grading or filling activities exceeding 200 square feet, on a property with a wetland buffer equal to or smaller than 2,000 square feet or exceeding 10% of the wetland conservation buffer on a property with a wetland buffer larger than 2,000 square feet; however, any disturbance exceeding 500 square feet shall require Planning Board approval.~~

~~(b) Grading or filling activities exceeding 200 square feet on a property with a wetland buffer equal to or smaller than 2,000 square feet or exceeding 10% of a wetland buffer on a property with a stream buffer larger than 2,000 square feet; however, a~~

~~(b) Any disturbance exceeding 500 square feet shall require Planning Board approval. The maximum amount of fill placed within a wetland conservation buffer shall not exceed 100 cubic yards.~~

(c) Clearcutting of existing vegetation exceeding 10% of the wetland conservation buffer; however, in no case shall said disturbance be conducted within 25 feet of the streambank.

~~(d) Use, storage or application of pesticides or other substances in quantities harmful to the environment, except for the spot spraying of noxious weeds or nonnative species or applications permitted by the county or local health department agency.~~

(3) Town Engineer approval required for utility installation within a wetland conservation buffer for existing uses. Drainage by ditches, underdrains or other systems shall be approved by the Town Engineer in accordance with § 215-112 of this Zoning Chapter. Disturbance shall be minimized to the maximum extent practicable. Nothing herein shall be construed to permit alteration to the stream's natural course. Subsequent to installation, the disturbed area of the stream conservation buffer shall be restored to its natural state.

(4) For regulated activities, the distances established herein shall be considered the minimum setback and may be increased depending on the nature of the terrain, the proposed disturbance and potential impacts to the stream that may result.

(5) These regulations are in addition to any regulations or requirements that may be imposed by the New York State Department of Environmental Conservation, the United States Army Corps of Engineers or other county, state or federal agency for activities affecting streams. Where any conflict exists, the regulations that are more protective of the area regulated herein shall apply.

(6) Grandfathered existing improvements. The provisions of this section shall not apply to any land use, improvement or development that has been physically completed prior to the effective date of these provisions. As used in this section, "physically completed" shall mean the actual completion of construction activities related to a regulated activity, including filling, erecting structures or other improvement or development activities.

(7) Grandfathered subdivisions, site plans and building permits. An applicant shall not be subject to these requirements where the applicant has been issued a building permit within three years from the effective date of this chapter for property that has preliminary or final subdivision approval or site plan approval. For subdivisions with preliminary approval, the grandfather period shall be extended for three years commencing on the date that final subdivision approval is granted. Nothing herein shall permit the issuance of a building permit for an activity that does not meet these regulations within a subdivision or site plan for which approval has expired. Any property which does not require site or subdivision plan approval, has been issued a building permit and does not conform to these regulations, shall be grandfathered for three years from the effective date of this section or until the building permit expires, whichever is less.

(8) Exempted activities. The following activities shall be exempted from the provisions of this section:

(a) The construction of a building, structure or impervious surface equal to or less than 200 square feet ~~for any property with a wetland buffer equal to or smaller than 2,000 square feet or 10% of the wetland conservation buffer for a property with a wetland buffer larger than 2,000 square feet; however, no disturbance shall exceed 500 square feet without obtaining Planning Board approval.~~

(b) Grading or filling activities equal to or less than 200 square feet ~~for any property with a wetland buffer equal to or smaller than 2,000 square feet or 10% of a wetland conservation buffer for a property with a wetland buffer larger than 2,000 square feet; however, no disturbance shall exceed 500 square feet without obtaining Planning Board approval.~~

(c) Normal ground maintenance, including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence, ~~but excluding the use of fertilizers, pesticides and herbicides.~~

(d) Selective cutting to remove dead branches or vegetation or to remove a hazard, e.g., removal of a dead tree to avoid damage to a property.

(e) Activities exempted from permit by § 24-0701 of Title 7 of Article 24, Freshwater Wetlands, of the Environmental Conservation Law.

(f) Routine maintenance of grandfathered existing improvements.

C. Except as otherwise exempted above, disturbance to the wetland conservation buffer shall require approval by resolution of the Planning Board. In making its determination, the Planning Board shall consider the following:

(1) Alternative location. The Planning Board shall consider reasonable alternative locations for said structures, buildings or proposed disturbance. The Planning Board shall determine whether the proposed activity may be situated in another portion of the property and located outside the stream conservation buffer.

(2) Infrastructure requirements. The Planning Board may approve disturbance to the wetland conservation buffer for construction of utility lines requiring discharge to a stream, e.g., minor clearcutting activities to install a stormwater management structure or, where there are no alternative locations, to situate proposed infrastructure, e.g. a septic field.

(3) Other activities. The Planning Board may approve wetland restoration projects, water quality monitoring and stream gauging, removal of individual trees which are in danger of falling or may cause damage to dwellings or other structures or block stream flow, or similar activities which will have a minor negligible impact on the wetland's function or its water quality.

D. Disturbance to be mapped. The applicant shall submit a property survey showing the general extent of the area to be disturbed and distance to the wetland. The Planning Board may require the submission of additional information, e.g., topography, if necessary to review the potential impact associated with the disturbance.

E. The Planning Board shall establish such conditions as may be necessary to minimize or mitigate disturbance to the wetland conservation buffer. The Planning Board may require that the area be flagged or otherwise be demarcated to identify the limits of disturbance as a condition of an approval.

F. The Planning Board may approve disturbance to the wetland conservation buffer as part of a site plan or subdivision application approval and shall make the same findings as required in § 215-72.1B above.

G. Nothing herein shall be construed to permit disturbances to a wetland or its conservation buffer otherwise regulated by other local, county, state or federal agencies. Where a conflict may exist, the regulations that are most protective of the environment shall apply.

H. Disturbance to the wetland conservation buffer shall require approval by resolution of the Planning Board. In considering the need for said disturbance, the Planning Board shall consider:

- (1) Reasonable alternative locations for said structures or buildings.
- (2) The necessity of any disturbance activities, e.g., no other location for a septic field.

I. The Planning Board shall establish such conditions as may be necessary to minimize disturbance to the wetland conservation buffer, including a delineation of the area to be disturbed prior to work being conducted. The applicant shall obtain all relevant state or federal permits prior to an approval being granted.

[No Change]

§ 215-72.1. Stream protection.

A. Purpose. Stream and riparian areas, the habitat bordering streams, are critical for water quality protection, erosion control, and as a living environment for many species of birds and wildlife. The riparian area adjacent to the stream shall be herein referred to as the stream conservation buffer. One of the most important methods of protecting stream quality is to limit stream disturbance within close proximity to a stream and its riparian area. The New York State Department of Environmental Conservation has established a water quality classification system for streams and designated the streams in the Town of Stony Point in accordance with this system.

(1) Stream conservation buffer area. No building permit shall be issued, nor shall any site plan or subdivision plan be approved, except in conformity with these regulations. Activities shall be regulated within any stream conservation buffer area, defined as that area measured perpendicular to a stream and located within a minimum distance from the stream established herein, or such greater distance as may be established by any permitting agency with authority over streams. The minimum distances are as follows:

(a) Seventy-five feet of the top of the streambank of a stream designated trout spawning (TS) or trout production (T) waters:

(b) Fifty feet of the top of a streambank of a stream designated A, B or C streams.

(c) Twenty-five feet of the top of a streambank designated D or any nondesignated stream.

(d) No stream buffer is required for intermittent or ephemeral streams, however, the Town Engineer shall review and approve any activity requiring a building permit that would fill, grade, reroute or otherwise alter a nondesignated intermittent or ephemeral stream to ensure that said activity shall not have a negative impact on drainage and property or otherwise negatively impact the proper functioning of said stream. The Planning Board shall approve said activities in conjunction with site plan or subdivision plan review. NYSDEC's manual entitled "Stream Corridor Management" shall be used as a guide in decisionmaking. To the maximum extent

practicable, the intermittent stream should be left in its natural state.

(2) Regulated activities. No building permit shall be issued, nor shall any site plan or subdivision plan be approved except in conformity with these regulations. The following activities shall not be permitted within a stream conservation buffer without first obtaining Planning Board approval:

(a) The construction of a building, structure or impervious surface or grading or filling activities exceeding 200 square feet. ~~The maximum amount of fill placed within a stream conservation buffer shall not exceed 100 cubic yards.~~

~~on a property with a stream buffer equal to or smaller than 2,000 square feet or exceeding 10% of the stream conservation buffer on a property with a stream buffer larger than 2,000 square feet, however, any disturbance exceeding 500 square feet shall require Planning Board approval.~~

(b) ~~Grading or filling activities exceeding 200 square feet on a property with a stream buffer equal to or smaller than 2,000 square feet or exceeding 10% of the stream conservation buffer on a property with a stream buffer larger than 2,000 square feet, however, a~~Any disturbance exceeding 500 square feet shall require Planning Board approval. ~~The maximum amount of fill placed within a stream conservation buffer shall not exceed 100 cubic yards.~~

(c) Clearcutting of existing vegetation exceeding ~~ten percent of the stream conservation buffer, however, 200 square feet and~~ in no case shall said disturbance be conducted within 25 feet of the streambank.

(d) ~~Use, storage or application of pesticides or other substances in quantities harmful to the environment, except for the spot spraying of noxious weeds or nonnative species or applications permitted by the county or local health department agency.~~

(3) Town Engineer approval required for utility installation within a stream conservation buffer for existing uses. Drainage by ditches, underdrains or other systems shall be approved by the Town Engineer in accordance with § 215-112 of this Zoning Chapter. Disturbance shall be minimized to the maximum extent practicable. Nothing herein shall be construed to permit alteration to the stream's natural course. Subsequent to installation, the disturbed area of the stream conservation buffer shall be restored to its natural state.

(4) For regulated activities, the distances established herein shall be considered the minimum setback and may be increased depending on the nature of the terrain, the proposed disturbance and potential impacts to the stream that may result.

(5) These regulations are in addition to any regulations or requirements that may be imposed by the New York State Department of Environmental Conservation, the United States Army Corps of Engineers or other county, state or federal agency for activities affecting streams. Where any conflict exists, the regulations that are more protective of the area regulated herein shall apply.

(6) Grandfathered existing improvements. The provisions of this section shall not apply to any land use, improvement or development that has been physically completed prior to the effective date of these provisions. As used in this section, "physically completed" shall mean the actual completion of construction activities related to a regulated activity, including filling, erecting structures or other improvement or development activities.

(7) Grandfathered subdivisions, site plans and building permits. An applicant shall not be subject to these requirements where the applicant has been issued a building permit within three years from the effective date of this chapter for property that has preliminary or final subdivision approval or site plan approval. For subdivisions with preliminary approval, the grandfather period shall be extended for three years commencing on the date that final subdivision approval is granted. Nothing herein shall permit the issuance of a building permit for an activity that does not meet these regulations within a subdivision or site plan for which approval has expired. Any property which does not require site or subdivision plan approval, has been issued a building permit and does not conform to these regulations shall be grandfathered for three years from the effective date of this section or until the building permit expires, whichever is less.

(8) Exempted activities. The following activities shall be exempted from the provisions of this section;

(a) The construction of a building, structure or impervious surface equal to or less than 200 square feet ~~for any property with a stream buffer equal to or smaller than 2,000 square feet or 10% of the stream conservation buffer for a property with a stream buffer larger than 2,000 square feet; however, no disturbance shall exceed 500 square feet without obtaining Planning Board approval.~~

(b) Grading or filling activities equal to or less than 200 square feet ~~for any property with a stream buffer equal to or smaller than 2,000 square feet or 10% of the stream conservation buffer for a property with a stream buffer larger than 2,000 square feet; however, no disturbance shall exceed 500 square feet without obtaining Planning Board approval.~~

(c) Normal ground maintenance, including mowing, trimming of vegetation and removal of dead or diseased vegetation around a residence, ~~but excluding the use of fertilizers, pesticides and herbicides.~~

(d) Selective cutting to remove dead branches or vegetation or to remove a hazard, e.g., removal of a dead tree to avoid damage to a property.

(e) Routine maintenance of grandfathered existing improvements.

B. Except as otherwise exempted above, disturbance to the stream conservation buffer shall require approval by resolution of the Planning Board. In making its determination, the Planning Board shall consider the following:

(1) Alternative location. The Planning Board shall consider reasonable alternative locations for said structures, buildings or proposed disturbance. The Planning Board shall determine whether the proposed activity may be situated in another portion of the property and located outside the stream conservation buffer.

(2) Infrastructure requirements. The Planning Board may approve disturbance to the conservation stream buffer for construction of utility lines requiring discharge to a stream, e.g., minor clearcutting activities to install a stormwater management structure, or where there are no alternative locations to situate proposed infrastructure, e.g. a septic field.

(3) Other activities. The Planning Board may approve stream restoration projects, water quality monitoring and stream gauging, removal of individual trees which are in danger of falling or may cause damage to dwellings or other structures or block stream flow or similar activities which will have a minor negligible impact on the stream's function or its water quality.

C. Disturbance to be mapped. The applicant shall submit a property survey showing the general extent of the area to be disturbed and distance to the stream. The Planning Board may require the submission of additional information, e.g., topography, if necessary to review the potential impact associated with the disturbance.

D. The Planning Board shall establish such conditions as may be necessary to minimize or mitigate disturbance to the stream buffer. The Planning Board may require that the area be flagged or otherwise be demarcated to identify the limits of disturbance as a condition of an approval.

E. The Planning Board may approve disturbance to the stream conservation buffer as part of a site plan or subdivision application approval and shall make the same findings as required in § 215-72.1B above.

F. Nothing herein shall be construed to permit construction within the one-hundred-year floodplain without first obtaining all necessary local, county, state or federal permits. Activities permitted within the stream conservation buffer may be subject to Chapter 112, Flood Damage Prevention of the Code of the Town of Stony Point.

G. Nothing herein shall be construed to permit disturbances to a stream or its conservation buffer otherwise regulated by other local, county, state or federal agencies. Where a conflict may exist, the regulations that are most protective of the environment shall apply.

Article XII. Conditional Use Approval by Planning Board

§ 215-73. General requirements.

[No Change]

§ 215-74. Applications.

[No Change]

§ 215-75. Timetable; public hearing.

[No Change]

§ 215-76. General procedures.

[No Change]

§ 215-77. Decisions.

[No Change]

§ 215-78. Appeal.

[No Change]

Article XIII. Conditional Use and Special Permit Standards

§ 215-79. General requirements.

[No Change]

§ 215-80. Dormitories.

[No Change]

§ 215-81. Hotels and motels.

~~A. Hotel and motel units shall not contain kitchen facilities of any nature, shall not be used as apartments for nontransient tenants, shall not contain more than two rooms and shall not be connected by interior doors in groups of more than two. There shall be no more than one hotel or motel unit for each 1,400 square feet of site area, exclusive of required setbacks.~~

~~B. Each hotel or motel room shall have an area of at least 300 square feet. Each hotel or motel unit shall have a bath facility with shower or bath, one toilet facility and a sink. No motel or hotel building shall exceed a height of three stories or 45 feet, whichever is less.~~

~~CB. The following accessory uses shall be permitted. The permitting of these uses as accessory uses shall not be construed to prohibit additional similar principal uses on the same lot as the hotel as otherwise permitted by the zoning:~~

~~(1) One apartment with or without kitchen facilities for the use of the hotel or motel manager or caretaker and his family within the motel building.~~

~~(2) One coffee shop for hotels or motels with no more than 100 rooms. For hotels or motels of over 100 rooms, a restaurant and a coffee shop are permitted. Such facilities shall be located within the hotel or motel building. Restaurants, coffee shops, bar and/or dining rooms.~~

~~(3) Amusements and sports facilities for the exclusive use of hotel guests, including:~~

~~(a) Swimming pool.~~

~~(b) Children's playground.~~

~~(c) Tennis and other game courts.~~

~~(d) Game or recreation rooms.~~

~~(4) Office and lobby, provision of which shall be mandatory for each hotel or motel.~~

~~(5) Meeting and/or conference rooms.~~

~~(6) Accessory local convenience commercial stores, except that the total area devoted to such uses may not exceed 2,000 square feet and there may be no external sign or advertisement of the accessory use.~~

~~(7) Business center;~~

~~(8) Laundry facilities;~~

~~D. All hotels and motels shall be equipped with sprinkler and fire alarm systems in accordance with the Town of Stony Point Fire Prevention Local Law.~~

§ 215-82. Animal shelters.

[No Change]

§ 215-83. Gasoline service stations and/or auto repair.

Gasoline service stations and/or auto repair are ~~special permit uses in BU Districts and~~ subject to the ~~restrictions as set forth in the Use Table, as well as the~~ following standards:

A. No stations shall be located closer than 200 feet to a school of general instruction, public recreation area, church or hospital, measured to the lot lines thereof.

B. Access points shall be located a minimum of 100 feet from the intersection of the designated street lines. All accesses shall be defined by the use of concrete curbing and shall be designed to provide safe and convenient travel without the potential for backing vehicles into the public street.

C. Pumps, pump islands and canopies are structures and shall not be located in any required yards or setbacks, except that the Planning Board may allow canopies to extend into the setback but not into any yard. No outdoor display of products not associated with the gasoline service station use shall be permitted.

D. Screening. A ten-foot-wide landscaped area shall be provided along all ~~gasoline service station~~ property lines, excluding the front line, property lines adjacent to existing commercial uses and access points. The landscaped area shall be densely planted with a mixture of shrubs, trees and a fence, not less than six feet high, which will create an opaque screen. All landscaped areas along property lines which are crossed by access drives shall be planted with low shrubs no greater than three feet high and trees with a branching habit which begins at least eight feet above ground level. Furthermore, no planting shall cause a hazardous condition by interfering with the normal line of sight (350 feet in either direction) needed for safe entering and exiting maneuvers by motor vehicles.

E. Maintenance and operation. Due to the extent of land use impacts from such stations which are a product of exterior operations, the following requirements shall be made and noted on the site development plan:

(1) All vehicles, including any cars, trucks or trailers offered for rent or lease at gasoline service facilities, except for one tow truck, shall be stored within a building or a fully enclosed screened area surrounded by opaque fencing and or landscape screening no less than eight feet in height, when the facilities are not open for business. Any such storage shall not be located within a front setback. However, licensed vehicles parked for minor repairs may be left outside for a period not to exceed 72 hours. At no time shall any dismantled automobiles, trucks, tractors, trailers or accessories thereof be outside of a building. ~~No car, truck or trailer rentals shall be permitted.~~ No more than four unregistered vehicles shall be permitted to be stored at any such facility at any one time. However, the number of unregistered vehicles that may be stored may be increased pursuant to a special request made to the Town Board.

(2) There shall not be any outside storage or display of accessories or portable signs when gasoline service facilities are not open for business, except that pricing signs are excluded from this regulation.

(3) Rubbish, oil cans, tires, discarded motor vehicle parts and components and any other waste materials may be temporarily stored in a completely fenced-in opaque enclosure adjacent to the gasoline service station building. The area of such enclosure shall not exceed 200 square feet. There shall be no storage at any time of any of the above-mentioned items outside of such enclosure.

(4) No repair work may be performed out of doors. This does not preclude, however, adding oil to motor vehicles, changing windshield wipers or other similar simple repairs normally performed in

conjunction with the sale of gasoline or working on only one vehicle at a time out of doors during normal business hours, provided that such vehicle is not remaining on lifts or blocks after business hours and is properly stored.

(5) During the hours that a gasoline service station is open, all cars of employees and customers and tow trucks must be parked only in areas designated on the site development plan.

(6) All landscaped areas designated on the gasoline service station site development plan and/or landscaping plan shall be maintained in a neat and healthy condition.

F. Vehicle sales prohibited. The offering for sale and the sale of new or used motor vehicles is prohibited. This prohibition includes the display of registered or unregistered vehicles with any "for sale" sign thereon.

G. Discontinuance of use. In the event that a gasoline service station is abandoned, as determined by the Building Inspector, the owner, lessee and/or motor fuel supplier of said gasoline service station shall remove ~~the tanks, gasoline pumps, all identification signs and lighting poles. In lieu of removing the tanks, said owner and/or lessee shall remove the flammable liquids therefrom and fill all tanks with water for a three-month period only and thereafter with a solid material. Removal of tanks, must be performed in conformance with applicable rules and regulations governing tank removal.~~ The owner and/or lessee shall also provide adequate protection against unlawful entry into the buildings and onto the property and shall close all vehicular entrances to the property to prevent the storage of abandoned vehicles thereon.

§ 215-84. Automobile washing facilities.

Automobile washing facilities may be permitted by the Planning Board as provided in the Use Table, subject to the following requirements:

~~A. Such establishments shall not be located closer than 400 feet to any residential district boundary line, school, hospital, nursing home or other similar institutional use.~~

~~BA. Where a automobile washing facility is proposed as a principal use: E~~each establishment shall provide parking/waiting areas equal in number to six times the maximum capacity. Four times the maximum capacity shall be provided for automobiles beyond the exit of the equipment so situated as to be usable for the hand finishing of the washing process and which shall be no closer than 50 feet to any street right-of-way line. A maximum capacity shall be determined by dividing the equipment line by 20 feet.

~~C. Disposal of wash water shall be subject to approval by the Planning Board.~~

~~DB. Where gasoline service stations are either a principal use or an accessory use with automobile washing facilities, the requirements of § 215-84 shall also be adhered to in granting approval of such uses. The above listed requirement shall not apply to accessory mechanized automotive washing facilities designed to wash one stationary vehicle at a time.~~

§ 215-85. Camps, day camps, summer colonies and recreational facilities.

[NO CHANGE]

§ 215-86. Senior citizen housing developments.

[NO CHANGE]

§ 215-87. Automobile sales and service agencies.

[NO CHANGE]

§ 215-88. Contractor's storage yards.

[NO CHANGE]

§ 215-88.1. Caretaker's and servants' quarters.

[NO CHANGE]

§ 215-89. New or expanded marinas, docks, related uses and facilities.

[NO CHANGE]

§ 215-90. Bed-and-breakfast.

Applicability. ~~As specified in Use Table, Column D, a bed-and-breakfast is permitted as an accessory use to a single-family residence in certain residential districts and is permitted as an accessory use to a nonconforming single-family residence in certain nonresidential districts.~~ A single-family residence must be in existence at the date of adoption of these regulations to become eligible to be a bed-and-breakfast home. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.

B. Application submission. In addition to the general requirements for ~~special-use permit~~ site plan approval, the applicant shall also submit:

(1) A sketch showing the floor plan of the home and the location of proposed guest room (s).

~~(2) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.~~

~~(3)~~ If a sign is proposed, a sign plan, including type and location of illumination.

~~(4) A letter from the Building Inspector stating that there are no violations in existence at the time of application.~~

~~(5)~~ A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect.

C. Requirements and conditions of operation.

(1) The bed-and-breakfast shall be the primary residence of the owner.

(2) The ~~preferred minimum~~ lot size shall be one acre, unless a larger minimum lot size is specified for single-family residences for the district in which the structure is located. ~~This lot size may be reduced upon application to the Town Board. The lot size can not be below the minimum lot size allowed for that particular zoning district.~~

~~(3) The number of paying guests accommodated per night shall not exceed eight guests, and no guest shall stay for a period exceeding 15 days. The bed and breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.~~

~~(4) A maximum of two adults guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to firesafety standards.~~

~~(53) There shall be no fewer than two nor more than eight guestrooms.~~

~~(4) There shall be no more than four bedrooms occupied by paying guests. Said Guestrooms shall not be equipped with a kitchenette or other cooking devices.~~

~~(65) As a minimum, There shall be at least one full bathroom shall be provided for per each two guest rooms. In addition, at least one a separate full bathroom shall be maintained for the owners of the single-family residence.~~

~~(7) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.~~

~~(86) A bed-and-breakfast is permitted one sign, not to exceed two square feet five square feet on each side, identifying the name of the facility. Illumination may be permitted, subject to Town Board approval. The Town Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.~~

~~(97) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom, plus an additional two spaces. Each space shall measure not less than nine feet by 18 feet in size. New parking areas required to meet these requirements shall consist of gravel to limit the introduction of impervious surfaces. Decorative gravel may be required where parking is visible from adjoining residences.~~

~~(10) The Town Board shall consider the need for landscaping to screen views from adjoining residences.~~

~~(118) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.~~

~~(12) There shall be no more than one employee in addition to the owner.~~

~~(13) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.~~

~~(914) It shall be documented that a adequate water supply and sewage treatment capacity shall exists to handle additional demands placed on the dwelling.~~

~~(1510) The Town Board reviewing Board, in considering each individual application, may impose reasonable conditions to protect the health, safety and welfare of the occupants of said establishment, and the surrounding neighborhood.~~

D. Approval. A ~~special use~~ permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with ~~the any~~ conditions of the ~~special use~~ permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.

E. Permit renewal. The applicant may renew the permit for additional ~~two~~five-year time periods, subject to approval ~~by of~~ the ~~Town reviewing~~ Board and any fees applicable to the review of ~~special use permit~~ applications. The Town Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed, and a list of violations or complaints, if applicable. The ~~Town reviewing~~ Board shall take the Building Inspector's report into consideration when rendering a decision.

F. Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

G. Registry. The Town Clerk shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

~~§ 215-91. Ambrey Pond Reservoir Protection District standards.~~

~~[NO CHANGE]~~

~~§ 215-92. Day-care center~~

~~A. Requirements and conditions of operation.~~

(1) Parking spaces shall be provided at a rate of one space per ~~250~~ 375 square feet of gross floor area....

~~[NO FURTHER CHANGE]~~

~~§ 215-92.1. Outdoor Commercial recreation establishments.~~

~~These conditions govern indoor- outdoor commercial recreation establishments, that are allowed as conditional uses in the BU or O Zoning District. These conditions also regulate outdoor recreation facilities/uses that are allowed as conditional uses within the LI Zoning District.~~

A. Location. Where outdoor recreation facilities are allowed, said facilities shall be located on-site and in a manner that minimizes potential impacts on nearby residential properties. Consideration shall be given to locating outdoor facilities away from residential property lines. The approving board may require that said facilities be screened through use of vegetation, fencing or a combination thereof from adjoining residential properties.

B. Hours of operation. The approving board may restrict the hours of operation of a commercial recreation establishment, ~~both indoor and outdoor~~, to minimize impacts associated with noise, lighting, traffic and similar potential effects which may be disruptive to surrounding properties.

C. Site lighting. A site lighting plan shall be provided, including all technical specifications for the type and intensity of lighting proposed, the location and height of all lighting fixtures, standards and luminaries. Lighting shall be designed so as not to affect nearby residential properties. The approving board may impose conditions on the operation of lighting, including, but not limited to, restrictions on the hours of operation, creation of a vegetative buffer or similar conditions.

D. Noise. Adequate evidence shall be furnished by the applicant demonstrating that noise levels will not likely disturb nearby residential properties. Such evidence must take into account the nature of the activity, the general demeanor of the participants, the frequency of the activity and the time and day of the proposed activity. In determining acceptable noise levels, the approving Board shall rely on local and county regulation, as well as criteria established by the U.S. Environmental Protection Agency and the United States Department of Housing and Urban Development.

E. Waste. The site plan shall demonstrate that wastes, including runoff containing fertilizer, pesticides, as well as solid waste will be contained, treated and disposed of in accordance with applicable local, county, state and federal regulations.

F. Safety considerations. Where outdoor recreation facilities are allowed, the approving Board shall consider the need for safety nets and similar design elements to secure stray balls or other equipment from reaching adjoining properties.

G. Special considerations. Because the range of recreational activities allowed as components of commercial recreation establishments are broad and the characteristics and intensity of use may vary, the approving Board may impose such additional requirements as may be necessary to provide adequate protection to adjoining and nearby properties, considering the proposed activity, the proposed location and the nature of the adjoining community.

§215-92.2 Residential Mixed-Use in the BU Zoning District

Residences shall be permitted by Conditional Use Permit of the Planning Board in the BU District subject to the following conditions:

A. Residential units shall not be permitted in any ground story or on any story located below grade or below a story containing a nonresidential use.

B. The ground floor of the building must contain a non-residential use which is a permitted or conditional use permit nonresidential use within the BU zoning district.

C. A parking requirement of two parking spaces per residential dwelling unit shall be met in addition to the parking requirement of the ground floor nonresidential use(s). No credit for joint or shared parking shall be permitted for the residential dwelling units and no adjustment in required parking shall be granted by the Building Inspector as may be otherwise permitted by the zoning local law;

D. At least 200 square feet of unpaved outdoor recreational area shall be provided per unit except that such area may contain block paver areas serving as a patio.

E. Residential units shall be accessed by separate entrances from nonresidential units.

F. Residential units shall each have a minimum floor area of 800 square feet.

G. Residential units shall have no more than two bedrooms per unit.

H. Residential units shall be made available by covenant or deed restriction to periodic inspection by the Building Department and Fire Inspector upon demand.

I. Ground floor uses can not involve the storage of toxic or flammable chemicals over 10 gallons, emit a day night noise level over 55 dBA perceptible in the residential dwelling unit, or emit any unreasonable odor or vibration.

Article XIV. Nonconforming Uses and Noncomplying Bulk

§ 215-93. Applicability.

[NO CHANGE]

§ 215-94. Buildings, structures or lots with noncomplying bulk.

[NO CHANGE]

§ 215-95. Additional requirements.

[NO CHANGE]

Article XV. Administration and Enforcement

§ 215-96. Designation and powers and duties of enforcement official.

[NO CHANGE]

§ 215-97. Violation of order.

[NO CHANGE]

§ 215-98. Right of entry.

[NO CHANGE]

§ 215-99. Penalties for offenses.

[NO CHANGE]

§ 215-100. Prosecution under statutory provisions.

[NO CHANGE]

§ 215-101. Appeals from decision of Building Inspector.

[NO CHANGE]

§ 215-102. Inspection by Town Engineer.

[NO CHANGE]

§ 215-103. through § 215-112. (Reserved)

[NO CHANGE]

Article XVI. Architectural Review Board

§ 215-113. Purpose.

[NO CHANGE]

§ 215-114. Organization.

[NO CHANGE]

§ 215-115. Meetings; promulgation of rules and regulations; maintenance of records.

[NO CHANGE]

§ 215-116. Quorum; disapproval of construction.

[NO CHANGE]

§ 215-117. Powers and duties.

[NO CHANGE]

§ 215-118. Standards.

[NO CHANGE]

§ 215-119. Limitations.

[NO CHANGE]

§ 215-120. Time limit for action.

[NO CHANGE]

§ 215-121. Application procedure.

[NO CHANGE]

§ 215-122. Appeals.

[NO CHANGE]

Article XVII. Board of Appeals

§ 215-123. Continuance; appointment; organization.

A. The existing Board of Appeals of seven members is hereby continued. Their successors shall be appointed in accordance with the provisions of the Town Law. The Town Board shall designate the Chairman from the Board of Appeals' membership.

B. In addition to any and all other qualifications for holding office as a member of the Zoning Board of Appeals and the Planning Board, all members of said Boards must attend no less than four hours of training classes offered either by the Rockland Municipal Planning Federation, [New York State Planning Federation](#), [Orange County Planning Federation](#), [Pace Law School Zoning School](#) or [other course approved by the Town Board](#) within one year from the effective date hereof, and complete such classes ~~and receive certification from the Federation~~ within two years from the effective date hereof; or ~~receive such similar course requirements instruction~~ as ~~are~~ provided by the Town's Legal Counsel ~~or a Planner certified by the American Institute of Certified Planners (AICP) and receive such similar certification within the same time period~~. Members appointed after the effective date of this section shall be required to attend not less than four hours of such classes within one year from the date of such appointment, and receive certification within two years from the date of such appointment. Recertification of all members shall be required each year thereafter from the date of initial certification. Training received in excess of four hours in any one year may be carried over by the member into succeeding years. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so. No decision of the Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with this requirement for training.

~~C. Alternate members.~~

~~(1) There shall be one alternate Board of Appeals member position for purposes of substituting for a member in the event that such member is unable to participate because of a conflict of interest or absence. Alternate members of the Board of Appeals shall be appointed by resolution of the Town Board. Such alternate members shall serve for a term of five years.~~

~~(2) The Chairperson of the Board of Appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest or absence on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board, provided, however, that no such alternate member shall be eligible to serve as Chairperson of such Board. Such designation shall be entered into the minutes of the initial Board of Appeals meeting at which the substitution is made.~~

~~(3) Such alternate members shall be subject to the same qualifications and requirements as members of such Board, including, but not limited to, the requirements set forth in Subsection B of this section.~~

§ 215-124. Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

A. Appeals. The Board of Appeals ~~shall hear and decide appeals from, and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from~~ review any order, requirement, decision or determination of, the Building Inspector, or such other administrative official charged with enforcement of this chapter (Zoning) and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from

~~whose order requirements, decision, interpretation or determination from the appeal is taken. The Board of Appeals shall not hear any appeal from nor review any order, determination, requirement, decision or revocation of the Building Inspector where such order, determination, requirement, decision or revocation has been directed by the Town Board. In addition, the Board of Appeals may not waive the requirements for site development plan application as required in any part of this chapter.~~

B. Interpretation. On an appeal from an order, requirement, decision or determination made by an administrative official or by the Building Inspector to decide any of the following questions:

- (1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.
- (2) Determination of the exact location of any district boundary shown on the Zoning Map.

~~C. Variances. On appeal from an order, requirement, decision or determination made by the Building Inspector, or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, the Board of Appeals is authorized to vary or modify the strict letter of this chapter where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this section, in such manner as to observe the spirit of the chapter, to secure public safety and welfare and to do substantial justice. Any referral to the Zoning Board of Appeals shall specify, in writing, the specific section numbers of the regulations requiring variances by the applicant.~~

~~(+)C. Bulk or Area variances.~~

~~(1) The Board of Appeals, on appeal from the decision or determination of the Building Inspector or an administrative official charged with the enforcement of this chapter, or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, shall have the power to grant bulk or area variances;~~

~~(2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Where, because of practical difficulty, an applicant requests a variance of the bulk requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the Board shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. In making this determination, the Board shall make each and every one of the following findings also consider:~~

~~(a) That Whether the variation is not substantial; in relation to the requirement.~~

~~(b) That the effect of any increased population density which may thus be produced upon available services and facilities is not significant.~~

~~(c) That a substantial change Whether an undesirable change will be produced in the character of the neighborhood or a substantial detriment to adjoining nearby properties will not be created by the granting of the area variance;:-~~

~~(d) That Whether the difficulty cannot be alleviated benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;:-~~

~~(c) That, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.~~

~~(fd) That the variation-Whether the proposed variance would not cause will have an adverse effect or impact on the physical or aesthetic, environmental or ecological impacts on the property or on surrounding areasconditions in the neighborhood or district; and -~~

~~(ge) That the requirements of Town Law § 267-b, Subdivision 3, have been fully satisfied-Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.~~

(3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community;

(2D) Use variances.

(1) The Board of Appeals, on appeal from the decision or determination of the Building Inspector or an administrative official charged with the enforcement of this chapter, or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, shall have the power to grant use variances

(2) No such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused ~~Where, because of unnecessary hardship,~~ In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under this Chapter (Zoning) for the particular zoning district where the property is located: relating to the land for a use not allowed in the district in which the land is located, an applicant requests a variance of the use requirements of this chapter, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one of the following findings:

~~(a) After considering all permitted uses, that the property in question-The applicant cannot yield-realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence-if used only for a purpose allowed in that district.;~~

~~(b) That the plight of the owner-alleged hardship relating to the property in question is due to unique circumstances affecting the property which is the subject of the application and does not apply to general conditions in the-a substantial portion of the district or neighborhood.~~

~~(c) That the use-requested use variance, if granted, to be authorized by the variance will not alter the essential character of the localityneighborhood; and-~~

~~(d) That the use to be authorized by the variance is in reasonable harmony with the intent of thischapter.~~

(ed) That the ~~unnecessary alleged~~ hardship ~~claimed as a ground for the variance~~ has not been ~~self-~~ created ~~by the owner or by a predecessor in title.~~

~~(f3) The Board of Appeals, in the granting of use variances, shall grant That within the intent and purposes of this chapter, the variance, if granted, is the minimum variance that it shall deem necessary and adequate to afford relief address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.~~

D. Extensions across district boundaries. In appropriate cases where a lot lies within two districts, the Board of Appeals may permit the extension of existing or proposed permitted accessory off-street parking space across a district boundary, under such conditions as will safeguard the character of the district into which such use is extended. However, no such extension shall exceed 75 feet, measured at right angles to such district boundary. The power under this subsection shall not permit the moving of the zoning district line but only the extension of the accessory off-street parking space.

E. ~~(Reserved)~~ Imposition of Conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

F. ~~The Board of Appeals, after a public hearing, shall have the power to direct the Building Inspector to issue a building permit, certificate of occupancy or certificate of use, as the case may be, subject to other applicable laws, codes, rules and regulations.~~

§ 215-125. Rules of procedure.

A. The Board of Appeals may adopt rules and regulations with respect to procedure before it and with respect to any subject matter over which it has jurisdiction, subject to approval of the Town Board. Such regulations shall include provisions for conduct of meetings, notification of parties, form of applications and filing of decisions.

B. Every decision of the Board of Appeals shall be recorded in accordance with a standard format adopted by the Board, shall fully set forth the circumstances of the case and shall contain a record of the findings on which the decision is based. Every decision of said Board shall be by resolution, and each such resolution shall be filed in the offices of the Town Clerk and Building Inspector by case number.

C. All appeals and applications made to the Board of Appeals shall be made in writing within 60 days after the filing of the order, desicision, requirement, interpretation, determination being appealed or referral and shall be accompanied by a fee as determined in the Standard Schedule of Fees, as may be adopted from time to time by resolution of the Town Board.

D. Any person making an application for relief to the Board of Appeals who, by agreement with the Board of Appeals or by unilateral action, waives or otherwise extends any period of time established by law for action of any kind by the Board of Appeals shall also be deemed to waive any claim relating to the expiration of such period of time and shall be estopped from asserting a claim against the Town, its boards officers, agents, consultants or employees, and the Town, its boards, officers, agents, consultants and employees may raise such waiver as an absolute defense or counterclaim in any such action of proceeding.

E. Any person making an application for relief to the Board of Appeals shall be deemed to have granted to the Board of Appeals, its members, consultants and other persons acting on behalf of the Board of Appeals, a license to enter the property for which relief is sought, which license shall continue until such time as relief is granted or denied by the Board of Appeals or until the Board of Appeals receives notice that the applicant has withdrawn such application.

F. Any relief granted by the Board of Appeals shall expire 18 months after the Board of Appeals actually votes to grant such relief, irrespective of the date such approval has been reduced to writing, unless a building permit, certificate of occupancy or certificate of use relating to such relief has been issued.

G. The Board of Appeals shall have the authority to call upon any department, agency, consultant or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed by the Town for any expenses incurred as a result of such assistance.

H. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal was taken, and after the notice of appeal shall have been filed with the administrative official, certifies that by reason of facts a stay, would, in her or his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals, or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

I. Hearing on Appeal. The Board of Appeal shall hold a public hearing on the application and give public notice of such hearing in a paper of general circulation in the Town and by mailing to adjoining property owners as reflected in the records of the office of the Town Assessor at least five days prior to the date thereof. Prior to the hearing, evidence of mailing shall be provided to the Clerk of the Zoning Board of Appeals in a form prescribed by the Zoning Board in its rules and regulations of proceedings. The cost of sending and publishing notices shall be borne by the appealing party and shall be paid to the Board prior to the hearing of such appeal.

J. Time of Decision. The Board of Appeals shall decide upon the appeal within sixty-two days of closing the public hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

K. Notice to Park Commission and County Planning Department. At least five days before the hearing, notices shall be mailed to a regional state park commission having jurisdiction over any state park within 500 feet of the property affected by such appeal; and to the Rockland County Planning Department as required by section 239-m of the General Municipal Law, except as waived by the Rockland County Planning Department.

L. Compliance with state environmental quality review act. The Board of Appeals shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations as codified in title six, part six hundred seventeen of the New York codes, rules and regulations.

M. Rehearing. A motion for the Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or

determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

N. Voting requirements.

(1) Decision of the board. Except as otherwise provided in subdivision twelve of this section, every motion or resolution of a board of appeals shall require for its adoption the affirmative vote of a majority of all the members of the Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency or regional planning council the voting provisions of section two hundred thirty-nine-m of the general municipal law shall apply.

(2) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the enforcement official within the time allowed by subdivision eight of this section, the appeal is denied. The board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in subdivision twelve of this section.

§ 215-126. Appeals.

Any person aggrieved by any decision of the Board of Appeals hereunder may, within 30 days of the filing of the decision with the office of the Town Clerk, appeal pursuant to Article 78 of the Civil Practice Laws and Rules.

Article XVIII. Planning Board

[Added 4-13-1999 by L.L. No. 5-1999]

§ 215-126.1. Continuance; appointment; organization.

A. The existing Planning Board of seven members is hereby continued. Their successors shall be appointed in accordance with the provisions of the the Town Law. The Town Board shall designate the Chairperson from the Planning Board's membership.

B. In addition to any and all other qualifications for holding office as a member of the Zoning Board of Appeals and the Planning Board, all members of said Boards must attend no less than four hours of training classes offered either by the Rockland Municipal Planning Federation, New York State Planning Federation, Orange County Planning Federation, Pace Law School Zoning School or other course approved by the Town Board within one year from the effective date hereof, and complete such classes ~~and receive certification from the Federation~~ within two years from the effective date hereof; or receive such similar course requirements instruction as ~~are~~ provided by the Town's Legal Counsel or a Planner certified by the American Institute of Certified Planners (AICP) and receive such similar certification within the same time period. Members appointed after the effective date of this section shall be required to attend not less than four hours of such classes within one year from the date of such appointment, and receive certification within two years from the date of such appointment. Recertification of all members shall be required each year thereafter from the date of initial certification. Training received in excess of four hours in any one year may be carried over by the member into succeeding years. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so. No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with this requirement for training.

[NO FURTHER CHANGE]

§ 215-126.2. Powers and duties.

[NO CHANGE]

§ 215-126.3. Rules of procedure.

[NO CHANGE]

§ 215-126.4. Appeals.

[NO CHANGE]

§ 215-126.5 Notification of Neighboring Municipalities

A. Prior to conducting a public hearing on a site plan or subdivision application for a property located within 500 feet of an adjacent municipality, the Planning Board shall provide to the Clerk of that adjacent municipality by mail or electronic transmission, notice of the public hearing no later than 10 days prior to any such hearing.

Article XVIII. Special Permits

§ 215-127. General provisions.

[NO CHANGE]

§ 215-128. Application procedure.

[NO CHANGE]

§ 215-128.1 Application procedure-Notification of Neighboring Municipalities

A. Any Board conducting a public hearing on an application for a Special Permit for a property located within 500 feet of an adjacent municipality shall provide to the Clerk of that adjacent municipality by mail or electronic transmission, notice of the public hearing no later than 10 days prior to any such hearing.

§ 215-129. Appeals.

[NO CHANGE]

Article XIX. Amendments

§ 215-130. General procedure; referral to Planning Board.

[NO CHANGE]

§ 215-131. Petitions for amendment.

[NO CHANGE]

§ 215-132. Public hearing.

[NO CHANGE]

§ 215-133. Notice of hearing.

[NO CHANGE]

§ 215-134. Referral to County Planning Board.

[NO CHANGE]

§ 215-135. Protest.

[NO CHANGE]

Article XX. General Provisions

§ 215-136. Interpretation of provisions.

[NO CHANGE]

§ 215-137. Severability.

[NO CHANGE]

§ 215-138. Repealer.

[NO CHANGE]

§ 215-139. Notification of public of proposed adoption.

[NO CHANGE]

Article XXI. Rules and Regulations

§ 215-140. Promulgation.

[NO CHANGE]

[We have provided attached Tables of General Use Requirements for the BU, LI, and LI-2 districts. In addition to the attached tables, the following are revisions required in the Town's Table of General Use Requirements.](#)